

U.S. Patent Application Serial No. 10/525,620  
Reply to Office Action dated October 16, 2006

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**Remarks:**

Applicants have read and considered the Office Action dated October 16, 2006, and the references therein. Claims 1 and 7 have now been amended. Claims 1 and 3-7 are currently pending. Reconsideration and reexamination are hereby requested.

In the Action, claims 1 and 3-7 were rejected under 35 U.S.C. § 112 as being indefinite. It was stated that there were several elements that lacked antecedent basis. Claims 1 and 7 have been amended and Applicants assert that proper antecedent basis is provided for all terms and that the rejection has been overcome. Applicants respectfully request that the rejection under 35 U.S.C. § 112 be withdrawn.

Claims 1 and 3-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Helbling. The Office Action states that the patent to Helbling discloses the claimed invention except for the specific programmable memory and learning means. The Office Action states that it would have been an obvious matter of design choice to have a programmable memory in which at least one of the amount signals and choice signals corresponding to the identification signal are stored and learning means with a manually actuatable dispensing control for dispensing a foodstuff into a container and for storing in the memory data relating to at least one of the amount and state of filling in dependence on the identification signal where the learning means provides for entering into the device specification data for a specific foodstuff depending on the identification signal. The Office Action states that the Applicant has not disclosed that such a design choice solves any stated problem or is for any particular purpose and that it appears that the invention would perform equally well. The Action states that features of an apparatus may be recited either structurally or functionally but that claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function.

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Applicants respectfully traverse the rejection. Claims 1 and 7 have been amended and recite structure that is neither shown nor suggested by Helbling or any other prior art. Although the Office Action contends that there is not any stated problem or particular purpose that the invention solves, Applicants respectfully disagree. As recited in the background of the invention, the present invention overcomes problems with regard to overflow and improper filling of various containers. The present invention provides a reliable system and method for filling containers and ensuring that the amount dispensed is properly associated with the particular container size. The present invention provides for automatic detection that is not possible with the prior art. Moreover, the present invention provides for learning additional containers and providing for dispensing a correct amount for the newly learned containers. Applicants note that Helbling only uses a coffee system with identically shaped carafes. The present invention is much more flexible and takes a completely different approach to identifying different types of foodstuffs to be dispensed into different sized and shaped containers so that the appropriate amount may be dispensed. As identical containers are utilized in Helbling, there is no motivation to identify the size and weight of the container. Moreover, as the carafes of Helbling are identically shaped, an identical amount of coffee is dispensed. The present invention goes above and beyond simply dispensing different flavors by matching different container shapes, sizes and styles with foodstuffs that may have different serving sizes.

Moreover, the present invention provides for learning about new shaped and sized containers and the corresponding new amounts to be dispensed that is not possible with the Helbling system. Helbling has no need to teach or suggest identification means detecting container shape and/or weight as identical carafes are always used with the Helbling device and identical amounts are dispensed. Conversely, the present invention provides for learning new amounts to be dispensed associated with new containers having various shapes and sizes and the corresponding amounts for dispensing. This solves the problem of different and new users trying to dispense different amounts from dispensers and the accidental overflowing that may be caused

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should too much fluid be dispensed due to an incorrect container being used for a foodstuff. Applicants assert that this provides advantages over the prior art and solves a long felt need in the industry that is neither shown nor suggested by Helbling or any other prior art. Applicants assert that claims 1 and 7 patentably distinguish over the prior art.

In addition, Applicants assert that claims 3-6 depending from claim 1 are also allowable for at least the same reasons. Applicants request the rejection under 35 U.S.C. § 103(a) be withdrawn.

A speedy and favorable action on the merits is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicants' representative at (612) 336-4728.



Respectfully submitted,

MERCHANT & GOULD P.C.

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